



State of Utah

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Environmental Quality

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DAQ-062-07

MEMORANDUM

TO: Air Quality Board

THROUGH: Cheryl Heying, Executive Secretary

FROM: Colleen Delaney, Environmental Scientist

DATE: September 5, 2007

SUBJECT: Propose for Public Comment: R307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD).

The federal Prevention of Significant Deterioration (PSD) permitting program in 40 CFR 52.21 is incorporated by reference into R307-405. The attached rule change updates the incorporation by reference to the most recent version of the CFR, dated July 1, 2007. The rule has been changed so that a single reference in R307-405-2 will apply to the entire rule rather than repeating the date in each subsection. This change will simplify future updates to the incorporation by reference date.

The following update to 40 CFR 52.21 will be included.

June 13, 2007 – EPA removed the pollution control project and clean unit provisions that were vacated by the DC Circuit Court of Appeals on June 24, 2005. The change was effective immediately. These provisions were already excluded from Utah's incorporation by reference so this is not a substantive change. R307-405 has been changed to remove the exclusions from the incorporation by reference because they are no longer needed.

Recommendation: Staff recommends that R307-405 be proposed for public comment to update the incorporation by reference to the July 1, 2007 version of the CFR. A copy of the proposal is attached.

R307. Environmental Quality, Air Quality.**R307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD).****R307-405-1. Purpose.**

This rule implements the federal Prevention of Significant Deterioration (PSD) permitting program for major sources and major modifications in attainment areas and maintenance areas as required by 40 CFR 51.166. This rule does not include the routine maintenance, repair and replacement provisions that were vacated by the DC Circuit Court of Appeals on March 17, 2006. [~~This rule does not include the clean unit and pollution control project provisions that were vacated by the DC Circuit Court of Appeals on June 24, 2005.~~] This rule supplements, but does not replace, the permitting requirements of R307-401.

R307-405-2. Applicability.

(1) [~~Except as provided in (2), t~~] All references to 40 CFR in R307-405 shall mean the version that is in effect on July 1, 2007.

(2) The provisions of 40 CFR 52.21(a)(2) [~~effective July 1, 2006,~~] are hereby incorporated by reference.

~~(2) The following provisions that apply to clean units and pollution control projects are not incorporated because these provisions were vacated by the DC Court of Appeals on June 24, 2005:~~

~~(a) 40 CFR 52.21(a)(2)(iv)(e);~~

~~(b) the last sentence in 40 CFR 52.21(a)(2)(iv)(f), and~~

~~(c) 40 CFR 52.21(a)(2)(vi).]~~

(3) Notwithstanding the exemptions in R307-401, any source that is subject to R307-405 is subject to the requirement to obtain an approval order in R307-401-5 through 8.

R307-405-3. Definitions.

(1) Except as provided in (2) below, the definitions contained in 40 CFR 52.21(b) [~~effective July 1, 2006,~~] are hereby incorporated by reference.

(2) (a)(i) "Major Source Baseline Date" means:

(A) in the case of particulate matter:

(I) for Davis, Salt Lake, Utah and Weber Counties, the date that EPA approves the PM10 maintenance plan that was adopted by the Board on July 6, 2005;

(II) for all other areas of the State, January 6, 1975;

(B) in the case of sulfur dioxide:

(I) for Salt Lake County, the date that EPA approves the sulfur dioxide maintenance plan that was adopted by the Board on January 5, 2005;

(II) for all other areas of the State, January 6, 1975; and

(C) in the case of nitrogen dioxide, February 8, 1988.

(ii) "Minor Source Baseline Date" means the earliest date after the trigger date on which a major stationary source or a major modification subject to 40 CFR 52.21 or R307-405 submits a complete application under the relevant regulations. The trigger date is:

1 (A) In the case of particulate matter and sulfur dioxide,
2 August 7, 1977, and

3 (B) in the case of nitrogen dioxide, February 8, 1988.

4 (iii) The baseline date is established for each pollutant
5 for which increments or other equivalent measures have been
6 established if:

7 (A) the area in which the proposed source or modification
8 would construct is designated as attainment or unclassifiable
9 under section 107(d)(i)(D) or (E) of the Act for the pollutant on
10 the date of its complete application under 40 CFR 52.21 or R307-
11 405; and

12 (B) in the case of a major stationary source, the pollutant
13 would be emitted in significant amounts, or, in the case of a
14 major modification, there would be a significant net emissions
15 increase of the pollutant.

16 (iv) Any minor source baseline date established originally
17 for the TSP increments shall remain in effect and shall apply for
18 purposes of determining the amount of available PM10 increments,
19 except that the executive secretary shall rescind a minor source
20 baseline date where it can be shown, to the satisfaction of the
21 executive secretary, that the emissions increase from the major
22 stationary source, or net emissions increase from the major
23 modification, responsible for triggering that date did not result
24 in a significant amount of PM10 emissions.

25 (b) In the definition of "baseline area" in 40 CFR
26 52.21(b)(15)(ii)(b) insert the words "or R307-405" after "Is
27 subject to 40 CFR 52.21".

28 (c) "Reviewing Authority" means the executive secretary.

29 (d)(i) The term "Administrator" shall be changed to
30 "executive secretary" throughout R307-405, except as provided in
31 (ii).

32 (ii) The term "Administrator" shall be changed to "EPA
33 Administrator" in the following incorporated sections:

- 34 (A) 40 CFR 52.21(b)(17),
35 (B) 40 CFR 52.21(b)(37)(i),
36 (C) 40 CFR 52.21(b)(43),
37 (D) 40 CFR 52.21(b)(48)(ii)(c),
38 (E) 40 CFR 52.21(b)(50)(i),
39 (F) 40 CFR 52.21(l)(2),
40 (G) 40 CFR 52.21(p)(2), and
41 (H) 40 CFR 51.166(q)(2)(iv).

42 (e) ~~[The following definitions or portions of definitions~~
43 ~~that apply to clean units and pollution control projects are not~~
44 ~~incorporated because these provisions were vacated by the DC Court~~
45 ~~of Appeals on June 24, 2005:~~

- 46 ~~(i) in the definition of "major modification" in 40 CFR~~
47 ~~52.21(b)(2), subparagraph (iii)(h),~~
48 ~~(ii) in the definition of "net emissions increase" in 40 CFR~~
49 ~~52.21(b)(3), subparagraph (iii)(b),~~
50 ~~(iii) in the definition of "net emissions increase" in 40~~
51 ~~CFR 52.21(b)(3), subparagraph (vi)(d),~~
52 ~~(iv) the definition of "pollution control project" in 40 CFR~~
53 ~~52.21(b)(32), and~~

1 ~~_____ (v) the definition of "clean unit" in 40 CFR 52.21(b)(42).~~

2 ~~_____ (f)]~~ The following definitions or portions of definitions
3 that apply to the equipment repair and replacement provisions are
4 not incorporated because these provisions were vacated by the DC
5 Circuit Court of Appeals on March 17, 2006:

6 (i) in the definition major modification in 40 CFR
7 52.21(b)(2), the second sentence in subparagraph (iii)(a),

8 (ii) the definition of "process unit" in 40 CFR
9 52.21(b)(55),

10 (iii) the definition of "functionally equivalent component"
11 in 40 CFR 52.21(b)(56),

12 (iv) the definition of "fixed capital cost" in 40 CFR 52.21
13 (b)(57), and

14 (v) the definition of "total capital investment" in 40 CFR
15 52.21(b)(58).

16 (3) "Air Quality Related Values," as used in analyses under
17 40 CFR 52.21 (p) that is incorporated by reference in R307-405-17,
18 means those special attributes of a Class I area, assigned by a
19 federal land manager, that are adversely affected by air quality.

20 (4) "Heat input" means heat input as defined in 40 CFR
21 52.01(g) [~~effective July 1, 2006~~], that is hereby incorporated by
22 reference.

23 (5) "Title V permit" means any permit or group of permits
24 covering a Part 70 source that is issued, renewed, amended, or
25 revised pursuant to R307-415.

26 (6) "Title V Operating Permit Program" means R307-415.

27 (7) The definition of "Good Engineering Practice (GEP) Stack
28 Height" as defined in R307-410 shall apply in this rule.

29 (8) The definition of "Dispersion Technique" as defined in
30 R307-410 shall apply in this rule.

31 32 **R307-405-4. Area Designations.**

33 (1) Pursuant to section 162(a) of the federal Clean Air Act,
34 the following areas are designated as mandatory Class I areas:

- 35 (a) Arches National Park,
- 36 (b) Bryce Canyon National Park,
- 37 (c) Canyonlands National Park,
- 38 (d) Capitol Reef National Park, and
- 39 (e) Zion National Park.

40 (2) Pursuant to section 162(b) of the federal Clean Air Act,
41 all other areas in Utah are designated as Class II unless
42 designated as nonattainment areas.

43 (3) No areas in Utah are designated as Class III.

44 45 **R307-405-5. Area Redesignation.**

46 Any person may petition the Board to change the
47 classification of an area designated under R307-405-4, except for
48 mandatory Class I areas designated under R307-405-4(1).

49 (1) The petition shall contain a discussion of the reasons
50 for the proposed redesignation, including a satisfactory
51 description and analysis of the health, environmental, economic
52 and social and energy effects of the proposed redesignation.

53 (2) The petition shall contain a demonstration that the

1 proposed redesignation meets the criteria outlined in Section VIII
2 of the State Implementation Plan and 40 CFR 51.166(e) and (g), ~~effective July 1, 2006~~ that is hereby incorporated by reference.

4
5 **R307-405-6. Ambient Air Increments.**

6 The provisions of 40 CFR 52.21(c) ~~[, effective July 1, 2006,]~~
7 are hereby incorporated by reference.

8
9 **R307-405-7. Ambient Air Ceilings.**

10 The provisions of 40 CFR 52.21(d) ~~[, effective July 1, 2006,]~~
11 are hereby incorporated by reference.

12
13 **R307-405-8. Exclusions from Increment Consumption.**

14 (1) The following concentrations shall be excluded in
15 determining compliance with a maximum allowable increase:

16 (a) concentrations attributable to the increase in emissions
17 from stationary sources which have converted from the use of
18 petroleum products, natural gas, or both by reason of an order in
19 effect under section 2(a) and (b) of the Energy Supply and
20 Environmental Coordination Act of 1974 (or any superseding
21 legislation) over the emissions from such sources before the
22 effective date of such an order;

23 (b) concentrations attributable to the increase in emissions
24 from sources which have converted from using natural gas by reason
25 of a natural gas curtailment plan in effect pursuant to the
26 Federal Power Act over the emissions from such sources before the
27 effective date of such plan;

28 (c) concentrations of particulate matter attributable to the
29 increase in emissions from construction or other temporary
30 emission-related activities of new or modified sources;

31 (d) the increase in concentrations attributable to new
32 sources outside the United States over the concentrations
33 attributable to existing sources which are included in the
34 baseline concentration; and

35 (e) concentrations attributable to the temporary increase in
36 emissions of sulfur dioxide, particulate matter, or nitrogen
37 dioxides from stationary sources which are affected by plan
38 revisions approved by the EPA Administrator as meeting the
39 criteria specified in 40 CFR 51.166(f)(4). The temporary increase
40 shall not exceed 2 years in duration unless a longer time is
41 approved by the EPA Administrator. This exclusion is not
42 renewable.

43 (2) No exclusion of concentration under (1)(a) or (b) above
44 shall apply more than five years after the effective date of the
45 order to which paragraph (1)(a) refers or the plan to which
46 paragraph (1)(b) refers, whichever is applicable. If both such
47 order and plan are applicable, no such exclusion shall apply more
48 than five years after the later of such effective dates.

49 (3) No exclusion under (1)(e) shall apply to an emission
50 increase from a stationary source which would:

51 (a) impact a Class I area or an area where an applicable
52 increment is known to be violated; or

53 (b) cause or contribute to a violation of the national

1 ambient air quality standards.

2
3 **R307-405-9. Stack Heights.**

4 The provisions of 40 CFR 52.21(h) [~~effective July 1, 2006,~~]
5 are hereby incorporated by reference.

6
7 **R307-405-10. Exemptions.**

8 (1) The provisions of 40 CFR 52.21(i)(1)(vi) through
9 (viii) [~~effective July 1, 2006,~~] are hereby incorporated by
10 reference.

11 (2) The provisions of 40 CFR 52.21(i)(2) through (5) [~~effective July 1, 2006,~~]
12 are hereby incorporated by reference.

13
14 **R307-405-11 Control Technology Review.**

15 The provisions of 40 CFR 52.21(j) [~~effective July 1, 2006,~~]
16 are hereby incorporated by reference.

17
18 **R307-405-12. Source Impact Analysis.**

19 The provisions of 40 CFR 52.21(k) [~~effective July 1, 2006,~~]
20 are hereby incorporated by reference.

21
22 **R307-405-13. Air Quality Models.**

23 The provisions of 40 CFR 52.21(l) [~~effective July 1, 2006,~~]
24 are hereby incorporated by reference.

25
26 **R307-405-14. Air Quality Analysis.**

27 (1) The provisions of 40 CFR 52.21(m)(1)(i) through (iv),
28 (vi), and (viii) [~~effective July 1, 2006,~~] are hereby
29 incorporated by reference.

30 (2) The provisions of 40 CFR 52.21(m)(2) and (3) [~~effective~~
31 ~~July 1, 2006,~~] are hereby incorporated by reference.

32
33 **R307-405-15. Source Information.**

34 The provisions of 40 CFR 52.21(n) [~~effective July 1, 2006,~~]
35 are hereby incorporated by reference.

36
37 **R307-405-16. Additional Impact Analysis.**

38 The provisions of 40 CFR 52.21(o) [~~effective July 1, 2006,~~]
39 are hereby incorporated by reference.

40
41 **R307-405-17. Sources Impacting Federal Class I Areas: Additional**
42 **Requirements.**

43 (1) The provisions of 40 CFR 52.21(p) [~~effective July 1,~~
44 ~~2006,~~] are hereby incorporated by reference.

45 (2) The executive secretary will transmit to the EPA
46 Administrator a copy of each permit application relating to a
47 major stationary source or major modification and provide notice
48 to the EPA Administrator of every action related to the
49 consideration of such permit.

50
51 **R307-405-18. Public Participation.**

52 (1) Except as provided in (2), the provisions of 40 CFR
53 51.166(q)(1) and (2) [~~effective July 1, 2006,~~] are hereby

incorporated by reference.

(2) The phrase "within a specified time period" in 40 CFR 51.166(q)(1) shall be replaced with the phrase "within 30 days of receipt of the PSD permit application".

R307-405-19. Source Obligation.

~~[(1) Except as provided in (2) below, t]The provisions of 40 CFR 52.21(r) [effective July 1, 2006,] are hereby incorporated by reference. [~~

~~(2) The parenthetical phrase in the first sentence in 40 CFR 52.21(r)(6) shall be changed to read "(other than projects at a source with a PAL)."~~

R307-405-20. Innovative Control Technology.

(1) Except as provided in (2), the provisions of 40 CFR 52.21(v) ~~[effective July 1, 2006,]~~ are hereby incorporated by reference.

(2)(a) The reference to "40 CFR 124.10" in 40 CFR 52.21(v)(1) shall be changed to "R307-405-18".

(b) 40 CFR 52.21(v)(2) shall be changed to read "The executive secretary shall, with the consent of the governors of other affected states, determine that the source or modification may employ a system of innovative control technology, if:".

R307-405-21. Actuals PALs.

(1) Except as provided in (2), the provisions of 40 CFR 52.21(aa) ~~[effective July 1, 2006,]~~ are hereby incorporated by reference.

(2) (a) The reference to "51.165(a)(3)(ii) of this chapter" in 40 CFR 52.21(aa)(4)(ii) shall be changed to "R307-403".

(b) The reference to "51.165(a)(3)(ii) of this chapter" in 40 CFR 52.21(aa)(8)(ii)(2) shall be changed to "R307-403".

(c) The references to "70.6(a)(3)(iii)(B) of this chapter" in 40 CFR 52.21(aa)(14)(ii) shall be changed to "R307-415-6a(3)(c)(ii)".

(d) The date of "March 3, 2003" in 40 CFR 52.21(aa)(15)(i) and (ii) shall be changed to "June 16, 2006".

R307-405-22. Banking of Emission Offset Credit in PSD Areas.

Banking of emission offset credits in PSD areas will be permitted. To preserve banked emission reductions the executive secretary must identify them in either the Utah SIP or an order. The executive secretary will provide a registry to identify the person, private entity, or government authority that has the right to use or allocate the banked emission reduction and to record any transfer of or lien on these rights.

KEY: air pollution, PSD, Class I area

Date of Enactment or Last Substantive Amendment: 2007

Notice of Continuation: June 16, 2006

Authorizing, and Implemented or Interpreted Law: 19-2-104